



Paper 15

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In re Application of  
Stokes et al.  
Application No. 09/376,317  
Filed: August 18, 1999  
Attorney Docket No. P-3569CON

**OFFICE OF PETITIONS**  
**DECISION ON PETITION**

This is a decision on the petition under 37 CFR §1.137(b), filed January 17, 2002 (certificate of mailing November 30, 2001, to revive the above-identified application.

This above-identified application became abandoned for failure to file a timely response to a non-final Office Action which was mailed on February 2, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely request for extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 3, 2001. A Notice of Abandonment was mailed on August 29, 2001.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The amendment submitted on September 4, 2001 (certificate of mail date August 31, 2001) along with a request for a four (4) month extension of time were untimely and improperly entered by the examiner during the period of abandonment. The six (6) month maximum statutory period for extension of time expired on August 3, 2001. Accordingly, deposit account number 13-2546 will be credited with \$1,440.00 for fees paid to acquire an extension of time. The gap in prosecution is being closed by this decision.

The RCE submitted with the instant petition will not be entered. As such the RCE fee of \$740.00 will be refunded to deposit account number 13-2546. Petitioner should note a final office action was mailed December 19, 2001 setting a shortened three month

period for reply of March 19, 2002. Petitioner can obtain an additional three months by requesting an extension of time pursuant to 37 CFR 1.136(a). If petitioner wishes to continue the prosecution of this application petitioner may wish to resubmit the RCE along with an appropriate submission to the examiner of record. <sup>1</sup> See 37 CFR 1.114(c).

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.



Charlema R. Grant  
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enclosure

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<sup>1</sup> A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirement of §1.111.